

REMARKS/ARGUMENTS

Election

The Office is requiring an election of species. Applicants elect, with traverse, the following species: gallocatechin. The elected species is encompassed by at least claims 10, 11 and 15.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP § 808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only. Applicants respectfully request that the election requirement be withdrawn.

Certified English Translation

Applicants note the Examiner's requirement for filing a certified English translation of Japanese Patent Application No. 2003-326140, filed on September 18, 2003.

Conclusion

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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